

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DOLLY ANN COOPER,

a/k/a "Sunsha Rosea Cervantas,"

a/k/a "Diane Pace,"

a/k/a "Jasmine Monique Salazar,"

a/k/a "Donna Smith,"

Defendant.

NO. CR05-182P

ORDER SETTING NEW TRIAL
DATE

THIS MATTER comes before the Court for purposes of setting a new trial date. The Court, having reviewed the file in this matter, and being otherwise fully advised, finds and rules as follows:

1. Defendant Dolly Ann Cooper was originally charged along with six other defendants in a multi-count indictment alleging a conspiracy to make and pass counterfeit traveler's cheques, and multiple substantive offenses related to that same offense. The indictment was filed on May 4, 2005.

2. Ms. Cooper was arrested pursuant to a warrant on May 10, 2005, and had her initial appearance and arraignment that same day. Trial was set for July 18, 2005.

3. A detention hearing was held for Ms. Cooper on May 11, 2005. The Government withdrew its motion for detention upon reviewing the pretrial services report.

1 Ms. Cooper was released on bond with pretrial supervision. Among other conditions, the
2 bond placed Ms. Cooper on electronic home monitoring; prohibited her from possessing
3 identification documents in any name other than her own; and required her to report any
4 contact with law enforcement within one business day.

5 4. Trial was subsequently continued several times based on stipulated motions
6 filed by the parties for good and sufficient reasons. In connection with the last motion to
7 continue, Ms. Cooper herself filed a waiver of her speedy trial right through December of
8 2005.

9 5. The last trial date set by the Court was October 17, 2005.

10 6. On or about July 10, 2005, Ms. Cooper was stopped for a traffic law
11 violation. At that time, Ms. Cooper produced a Washington State Identification Card in
12 the name Sunsha Rosea Lobey, in apparent violation of one of the conditions of pretrial
13 supervision. Ms. Cooper also failed to report this contact with law enforcement to pretrial
14 services.

15 7. On or about September 16, 2005, Pretrial Services presented a Petition for
16 Summons for Ms. Cooper related to the alleged violation referenced above. Magistrate
17 Judge Monica J. Benton instead issued a warrant for Ms. Cooper's arrest, but instructed
18 the Pretrial Services officer that she should call Ms. Cooper and instruct her to self-
19 surrender by 4:00 p.m. the next day as a courtesy.

20 8. Ms. Cooper failed to self-surrender; instead, she absconded from her home,
21 in violation of the conditions of supervision including the electronic home monitoring
22 condition.

23 9. In the meantime, all other defendants in this matter pleaded guilty, and are
24 currently pending sentencing.

25 10. Ms. Cooper remained a fugitive as of the scheduled trial date of October 17,
26 2005.

27 11. Ms. Cooper was arrested pursuant to the warrant issued by Magistrate Judge
28 Benton on December 2, 2005; approximately 72 days after the issuance of the warrant,

1 and approximately 46 days after the last-scheduled trial date of October 17, 2005. She
2 had her initial appearance that same day. At the hearing, Ms. Cooper's lawyer concurred
3 with the facts set forth above, but advanced arguments in mitigation and asked for her
4 release. Defendant was ordered detained, and remains in custody at the Federal Detention
5 Center.

6 12. Both the Defense counsel and the Government are unavailable the week of
7 February 6, 2005. Defense counsel has a long-scheduled vacation set that week, and the
8 AUSA assigned to this matter is scheduled to attend training at the National Advocacy
9 Center that same week. The Court's trial schedule precludes a trial prior to that date.

10 13. In addition, the parties require additional time to resolve the case and, if that
11 is not possible, to prepare for trial. This is due to new issues raised by Ms. Cooper's
12 absence on the trial date, and possible new charges for that failure to appear pursuant to 18
13 U.S.C. 3146.

14 14. In addition, the Defense needs additional time to prepare for trial, given the
15 resolution of this case against other defendants, and the willingness of some of these co-
16 defendants to testify against Ms. Cooper.

17 15. Ms. Cooper's counsel has indicated that she is willing to waive her speedy
18 trial rights through the end of March, 2006.

19 Based on the foregoing factual findings, the Court concludes as follows:

20 1. Pursuant to 18 U.S.C. § 3161(k)(1), if the defendant is absent on the day of
21 trial; and the defendant's subsequent appearance on a bench warrant is more than 21 days
22 after the date set for trial; then the defendant is deemed to have had her first appearance on
23 the charges at her initial appearance on that bench warrant.

24 2. Ms. Cooper had her initial appearance on the bench warrant issued for her
25 violation of the conditions of her bond on December 2, 2005. Accordingly, the Court
26 finds that the time to bring the Defendant to trial ends, unless otherwise extended, on
27 February 10, 2006, pursuant to 18 U.S.C. §§ 3161(c)(1) and (k)(1).
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3. Counsel for both Ms. Cooper are unavailable the week of February 6, 2005 due to previously scheduled travel commitments. The Court finds that depriving *both* parties of continuity of counsel would not serve the ends of justice, within the meaning of 18 U.S.C. §§ 3161(h)(8)(A) and (h)(8)(B)(iv); and that this need outweighs the best interest of the public and the defendant in a speedy trial.

4. In addition, the Court finds that counsel for the Defendant needs additional time to resolve this matter, and if that is not possible, to effectively prepare for trial. The Court finds that this need is due the possibility of new charges for her failure to appear, and the existence of new witnesses due to the resolution of this case against other Defendants.

5. The Court further finds that this need for additional time exists despite the exercise of due diligence by both parties; and that denying additional time would not be in the interests of justice, which outweighs the public and the defendant's interest in a speedy trial, again pursuant to 18 U.S.C. §§ 3161(h)(8)(A) and (h)(8)(B)(iv).

NOW, THEREFORE, it is hereby ORDERED that this matter is set for trial on March 6, 2006. Defendant shall file a speedy trial waiver no later than January 3, 2006.

So Ordered this 9th day of January, 2006.

/S/Marsha J. Pechman
THE HONORABLE MARSHA J. PECHMAN
United States District Court Judge

Presented by:

s/ Vincent T. Lombardi
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APPROVED, NOTICE OF PRESENTATION WAIVED

s/ Peter Mazzone

1 PETER MAZZONE (via telephone authority 12/22/05)
2 Attorney for Defendant Dolly Ann Cooper
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